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COPY

In re Application of: :
BEARDOW, Paul :
U.S. Application No.: 10/500,260 :
PCT No.: PCT/GB02/05609 :
International Filing Date: 11 December 2002 :
Priority Date: 11 December 2001 :
Atty Docket No.: 22557-3013/US :
For: METHOD AND APPARATUS FOR :
IMAGE CONSTRUCTION AND :
ANIMATION :

DECISION ON RENEWED
PETITION
(37 CFR 1.10(d))

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.10" filed 30 July 2007. No additional petition fee is required.

BACKGROUND

On 11 December 2002, applicant filed international application PCT/GB02/05609. The application claimed a priority date of 11 December 2002, and it designated the United States. On 19 June 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 14 June 2004 (11 June 2004 was a federal holiday, and 12-13 June 2004 was a weekend).

In June 2004, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration. The USPTO assigned the submission a filing date of 15 June 2004.

On 10 December 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) and a filing receipt that identified the 35 U.S.C. 371(c) date as 15 June 2004.

On 30 March 2006, applicants filed a petition under 37 CFR 1.10(d) seeking correction of the 35 U.S.C. 371(c) date to 14 June 2004.¹ The petition asserted that the "Express Mail" envelope containing the materials filed to initiate the present national stage application was deposited in a USPS "Express Mail" drop box on 11 June 2004 (a federal holiday), and that the

¹ Applicant asserts that this petition was originally submitted on 13 September 2005.

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filing date for these materials should therefore be corrected to 14 June 2004 (the following Monday, which was the next business day after the deposit).

On 28 March 2007, this Office mailed a decision dismissing applicant's petition for failure to satisfy the requirements of 37 CFR 1.10(d). Specifically, the decision required applicant to provide additional evidence from the USPS to determine when the USPS pick-up was made at the box used by applicant.

On 30 July 2007, applicant filed the renewed petition considered herein (with required two-month extension fee).

DISCUSSION

The renewed petition includes a statement from counsel that, in a conversation with a USPS mail carrier that services the drop box at issue, the carrier confirmed that "the box always has pick-ups on Monday-Friday." The petition also states that efforts to get additional materials from the USPS have been unsuccessful.

Based on the materials provided herein and with the original petition, it is concluded that applicants have made an acceptable showing that the materials filed to initiate the present international application were deposited with the USPS on 11 June 2004, prior to the final scheduled pick-up on the next business day, that is, 14 June 2004. Accordingly, applicants have satisfied the final requirement for a grantable petition under 37 CFR 1.10(d).

Based on the above, the filing date for the materials filed to initiate the present national stage application is appropriately corrected to 14 June 2004, prior to the expiration of thirty months from the priority date. Because this submission included the materials required to satisfy 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), the correct date under 35 U.S.C. 371(c) for the present application is 14 June 2004.

The Notification of Acceptance and filing receipt mailed 10 December 2004, both of which identified the 35 U.S.C. 371(c) date as 15 June 2004, are appropriately vacated. A corrected Notification of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c) as 14 June 2004.

CONCLUSION

The renewed petition under 37 CFR 1.10(d) is **GRANTED**. The materials initiating the present international application, including the basic national fee and the declaration, will be accorded a filing date of 14 June 2004.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 10 December 2004 are hereby vacated.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuing of

a corrected Notification of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 14 June 2004.

A handwritten signature in dark ink, appearing to read 'Roe R', with a stylized, cursive script.

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